☕ Coffee & Covid ❧ Monday, October 11, 2021 ❧ COVID ULTIMATUM GUIDE

A comprehensive guide for folks facing imminent "vaccinate or terminate" employment policies.

Jeff Childers
Oct 11 ♡ 121 🗨 93

It's the second Monday in October and it feels like another dam is breaking. Southwest pilots and FAA traffic controllers walked off the job this weekend, protesting injection mandates and creating aerial chaos with literally thousands of flights canceled. Will Biden fire them all like Reagan did in the 80's?

Even though there's more news today than lies in a CDC press conference, a lot of folks are facing imminent injection ultimatum deadlines. Should they resign? Take the jabs? Try to sue? What to do? Today I'm offering suggestions to all those folks who are facing reprehensible employment policies that treat them like cattle. Send to everyone who needs to see this.

🗞*GUIDE TO EMPLOYER INJECTION ULTIMATUMS* 🗞

The first thing you need to do is buck up. This is a spiritual war, and you need to be in top mental form to fight. They overwhelmed us; we lawyers are working on it night and day but there just aren't enough of us to get in front of enough courts in the short amount of time before termination deadlines kick in. So get yourself ready to fight for yourself for now, if you have to:

> "Better to fight for something than live for nothing."

— Gen. George S. Patton.

> "We, too, born to freedom, and believing in freedom, are willing to fight to maintain freedom. We, and all others who believe as deeply as we do, would rather die on our feet than live on our knees."

— Franklin Delano Roosevelt

Look, this is an awful situation. But don't feel hopeless or powerless. You have the high ground, morally and legally. Just because they are doing a bunch of lawless stuff, fast, doesn't mean there won't eventually be justice. Why do I say that? Not only is what they're doing patently unconstitutional, but they are dumb, deluded, and desperate. Desperate because they are doing all this in such a hurry to stay away from the courts. And when you do things in a hurry, you make mistakes. They are going to make a LOT of mistakes.

What your employer is doing is also wicked. The Bible has a lot to suggest about what happens to people who plot wicked schemes against you:

"*May ruin befall them by surprise; may the net they hid ensnare them; may they fall into the hazard they created*."
— Psalm 35:8

"*He has dug a hole and hollowed it out; he has fallen into a pit of his own making*."
— Psalm 7:15.

"*They spread a net for my feet; my soul was despondent. They dug a pit before me, but they themselves have fallen into it! Selah.*"
— Psalm 57:6.

"*Let the wicked fall into their own nets, but let me escape*."
— Psalm 141:10.

✊ *MANDATORY DISCLAIMER* ✊

Before we get started, since I'm a lawyer, here's the mandatory disclaimer that I'm required to give you. This post is not legal advice. I am not your lawyer and this post does not create any attorney-client relationship. Use any suggestions herein at your own risk and consult your own counsel.

Now, let's get going.

✊ *FIRST PRINCIPLES* ✊

Your employer is wrong.

What they are doing is illegal and unconstitutional. If it's a government employer, they are violating *Planned Parenthood v. Casey*, *Roe v. Wade*, and a long line of bodily integrity cases flowing from those cases. The *Methodist Hospital* case and its sad progeny have been wrongly decided; threats of loss of employment ARE well-known to be coercive. *See, e.g., Am. Fed'n of State, County & Mun. Employees Council 79 v. Rick Scott*, 717 F.3d 851, 874 (11th Cir. 2013) ("In effect, the State is offering its employees this Hobson's choice: either they relinquish their Fourth Amendment rights and produce a urine sample which carries the potential for termination, or they accept termination immediately ... To begin with, we do not agree that employees' submission to drug testing, on pain of termination, constitutes consent under governing Supreme Court case law").

The "vaccinate or terminate" policy is no less wrong because your employer is a private company (meaning, not run by government). The reason is because your private employer would not have done this BUT FOR the government coercing them to. The government can't do something THROUGH a private actor that it would be illegal to do directly. *See, e.g., Hammerhead Enterprises, Inc. v. Brezenoff*, 707 F. 2d 33 (2d. Cir. 1983) ("Where comments of a government official can reasonably be interpreted as intimating that some form of punishment or adverse regulatory action will follow the failure to accede to the official's request, a valid claim can be stated.").

So.

✊ *FIRST STEPS* ✊

Unless you have a solid financial reason, DO NOT QUIT. If you resign, you torch your rights to sue your employer later for damages if they wrongfully fire you. That's exactly what they want you to do.

There will be a flotilla of arguments to sue private companies for wrongful termination, don't you worry. When the dust clears, there is going to be a thousand times as much litigation over these firings than all the tobacco litigation put together. These employers aren't going to know what hit them.

All these employer policies are designed to convince you to resign. That's the best-case scenario for the employer. It absolves them from liability. They'll argue, who knows WHY the person quit? Could have been any reason. Uh-huh. I've seen memos stating that, "If you do not sign this acknowledgment [to inject], then you will be deemed to have resigned." First of all, that's bogus and unenforceable. Second, don't sign it, and don't resign.

If you quit, you'll be ineligible for unemployment benefits. Those benefits cost your employer a lot of money. Make them pay.

What are some sound reasons to quit? Say you've already found a better job. Take it and go. Or maybe you're eligible for retirement or early retirement. Take the retirement and THEN go find another job. But if you don't have a compelling financial reason, DO NOT QUIT.

If you've already quit, don't worry about it. We can still argue that you were constructively terminated. See, e.g., [Constructive dismissal - Wikipedia].

✊ *HOW TO TIPTOE THROUGH THE EVIDENTIARY MINEFIELD* ✊

If your employer has set an injection-or-termination deadline, they are also busy collecting evidence to use against you to defend themselves in a later lawsuit. Keep that in mind every time you send an email or text about the policy, or fill out a form, answer a questionnaire, or submit a "request for accommodation."

Anything you send your employer in writing, in whatever form, should begin with the words, "I want to keep my job. I have been a loyal and productive employee here since [DATE]." If you've received honors, excellent performance reviews, awards, or the like, add a line mentioning those. REPEAT THIS STATEMENT EVERY SINGLE TIME you talk about the policy in writing. Let's call this the "Job Affirmation Statement."

Don't put anything in writing that could be used against you. Save your temper tantrums and venting for outside the workplace. Never say anything negative or even slightly critical of your employer. If you've already done that, offset it now by saying something positive and apologizing for your previous comments. IN WRITING.

Keep EVERYTHING. Build your evidence locker. What your future lawyer will want is evidence. Make a special file — outside your employer's file system — to keep every single thing that relates to the policy; what you said, what they said, and so forth. Print every online form, FAQ, memorandum, etc. to PDF and save it to your evidence file.

Note: I am NOT saying to avoid talking to them about the policy. Just the opposite. Talk to them a LOT. In a positive way. We're trying to get them to make mistakes and say something we can use against them later.

Finally, BCC your own personal email account on all your communications with them. That way you'll have access to those emails even if your email account is unexpectedly closed down.

(If you're a lawyer for a big employer reading this to find out what I'm suggesting to folks, first, you should be ashamed of yourself. Second, get stuffed. When the dust finally clears, we're coming for your client, hard.)

✊ *HOW TO DOCUMENT ORAL COMMUNICATIONS* ✊

I've noticed a lot of these employers are trying super hard not to create evidence that can be used against THEM. So tons of communications about these policies are being handled orally. "Please call HR to discuss," and so forth.

That's no problem. After you have an oral conversation with a manager at your company about the policy, go right back to your workstation, and compose an email to that person. Here's what to put in it:

1) Thank them and frame it as your professional attempt to make sure you understood everything ("Thanks for the informative conversation just now. I wanted to recap what we discussed to make sure I understood everything you said and didn't miss anything.")

2) State the Job Affirmation Statement ("To be clear, I want to keep my job…").

3) Recap what they said. "As I recall, you said BLH BLAH BLAH."

4) If it's important, recap what YOU said: "I said, BLAH BLAH BLAH."

5) Ask for correction ("Please let me know ASAP if I've misunderstood anything, or left anything important out.")

6) Thank them again ("Thanks so much for taking the time to assist me with these difficult matters. I appreciate it very much.")

Then print the email out to PDF and save it in your evidence locker. If they respond, add the response. Document EVERYTHING.

✊ *ASK TO BE RELEASED FROM YOUR RESTRICTIVE COVENANTS* ✊

Many of you will also be subject to long-standing "restrictive covenants," like non-disclosures, non-solicitation agreements, and non-competes.

Send an email RIGHT NOW asking to be released from those if you are ultimately terminated. First review the employee handbook or your employment agreement to find all these. Then, write HR something like this, but in your own words:

> "Hi. [JOB AFFIRMATION STATEMENT]. But, in the event that I /am/ terminated due to the vaccine policy, please consider this to be my formal request to be released from my non-compete, non-disclosure, and non-solicitation restrictions [modify as appropriate]. If I do not hear back from you I will assume that you have agreed."

Document it. They may or may not respond. If they do send you something from legal that says "you can't do that" or the like, just email back, "I disagree, but hopefully that won't be an issue, because [JOB AFFIRMATION STATEMENT]." Document everything into your evidence locker.

✊ *CHECK YOUR EMPLOYMENT AGREEMENT* ✊

Most of you are at-will employees with no definite employment agreement. But some of you HAVE employment agreements, especially if you're an executive or a salesman. Review your employment agreement. It probably doesn't say anything about having to take experimental EUA drugs. Now would be a good time to point this out to your employer, that they are breaching by adding conditions not in the contract. If they push back, say you'll get a lawyer if you have to, but you'll expect them to pay for it if it turns out you were right.

✊ *WORK TOGETHER* ✊

There is nothing whatsoever wrong with putting up a flyer in the break room, or even sending a company-wide email for that matter, asking other people who don't want the injection to meet up after hours to discuss the situation. Just don't spend a lot of work time on organizing and don't use company equipment to do it. Do the organizing and printing on your own time.

If you find you have a big enough group, discuss ways to (legally) put pressure on your employer. Maybe you can all take vacation at the same time, for example. (If you're subject to a collective bargaining agreement, talk to your union lawyer before you do that. Otherwise, you should be good.)

Don't try to hurt their business, at least, not directly, not as your primary goal. You have a common-law duty of loyalty to your employer, so don't be doing dumb stuff like emailing confidential materials to competitors or anything like that. Don't lie. Keep the high ground. But be firm. Use ALL the legal tools available to you.

✊ *MORE COMMENTS ON RELIGIOUS EXEMPTIONS* ✊

I've previously written a primer on how to write religious exemption requests: [⛪ PRIMER ON RELIGIOUS EXEMPTION REQUESTS⛪ - by Jeff Childers - ☕ Coffee & Covid 2021 🗒]

Now, let's talk some more about this most powerful exemption.

First of all, the big employers are DEFINITELY discriminating against religious folks. Rampantly. It's disgusting, and it shows how lost and pagan the corporate world has become. I weep for those people.

Title VII of the Civil Rights Act of 1964 prohibits employers from discriminating against employees on the basis of their sincerely held religious beliefs. See 42 U.S.C. §2000e-2(a) ("It shall be an unlawful employment practice for an employer . . . to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, or national origin").

It's not just sincerely-held religious beliefs either. Atheists aren't left out. Title VII's protections also extend nonreligious beliefs if they are related to morality, ultimate ideas about life, purpose, and death. See EEOC, Questions and Answers: Religious Discrimination in the Workplace (June 7, 2008), ("Title VII's protections also extend to those who are discriminated against or need accommodation because they profess no religious beliefs").

That's why they are going to such great lengths to document your "religious exemption request." They're scared of the lawsuits. If they fire you over your religious beliefs, and can't show the employment policy was reasonable, or that there was no reasonable way they could accommodate you, then they will probably ultimately be liable for all your financial damages. So.

Let me be clear about something. There's no such thing as a "religious exemption REQUEST." You don't have to REQUEST it. It's the LAW. They have to accommodate your religious or moral beliefs. It's the employer's burden, not yours. All you have to do is NOTIFY THEM of your sincerely-held religious or moral beliefs. Stop thinking you have to beg for it.

What's a sincerely-held moral belief? That compulsory medical treatments similar to those seen in Nuremberg are EVIL. That the top people pushing these injections are immoral, bad people. That abortion is wrong and the fruits of abortion are equally wrong (all three of the currently available Covid injections are developed and produced from, tested with, researched on, or otherwise connected with the aborted fetal cell lines HEK-293 and PER.C6). That employers can't treat their employees like cattle. That employers can't treat their employees' bodies like equipment to be upgraded or something.

Here's what your sincerely-held moral or religious beliefs do NOT have to be:

— Religious. As I said, it doesn't even have to be a religious belief, just a sincerely-held moral or ethical belief.

— Consistent with previous actions, like other vaccines you might have taken. Doesn't matter.

— "[A]cceptable, logical, consistent, or comprehensible to others in order to merit [legal] protection."

— Long-standing. Even newly-acquired beliefs are fine, so long as they are sincerely-held. Go get baptized. It's time you did it anyway. A good church will provide you with a social safety net, worst come to worst.

— Consistent with generally accepted tenets of your religious denomination ("we reject the notion that to claim the protection, one must be responding to the commands of a particular religious organization").

I am aware that a lot of these employers are rejecting religious accommodation requests en masse. That's fantastic evidence of religious discrimination right there. That's an employer falling into a trap of its own making. That's a ton of lawsuits waiting to happen after people are terminated and start encountering financial damages.

In fact, it's SO bizarre that employers would be rejecting religious accommodation requests en masse that it makes me think they might just be playing chicken and are going to back down once they get enough people to take the jab through anxiety and pressure tactics. They couldn't be THAT stupid, could they?

If you can get them to say something anti-religious in an email, that is legal GOLD. So let your religious and moral beliefs shine. Talk about them a LOT.

Summary: make your religious or moral objections and stick to your guns. Do not quit.

✊ *WHAT TO DO IF YOUR 'REQUEST' IS REJECTED* ✊

If your employer rejects your religious exemption "request," send this email to HR:*

> "[JOB AFFIRMATION STATEMENT]. But I was confused just now when I received this notification that you are 'rejecting' my religious beliefs. That makes no sense to me. My religious beliefs are deeply-held and I do not recognize your authority to reject them. To be clear, I have notified you of my sincerely held religious beliefs. I expect you to accommodate them. Please govern yourself accordingly."

* Substitute "moral beliefs" as appropriate.

Document, document, document.

✊ *SHOULD YOU PERSUADE YOUR EMPLOYER TO CHANGE COURSE?* ✊

Absolutely try to persuade them to change the policy. Some employers have already changed course, so it's not a complete lost cause. Send them studies, articles, Bible verses, or essays that you've written. Liberally use your Job Affirmation Statement and keep a positive attitude. Document everything, especially responses.

✊ *WHAT ABOUT YOUR NATURAL IMMUNITY?* ✊

If you have natural immunity from a prior Covid infection, TELL YOUR EMPLOYER. Go get an antibody test. Not all the tests are equal. Some are more accurate than others. Do your homework. And there are false negatives. So don't give up if your first one is negative, if you know for sure you had the virus. A LOT of us have. We're the ones not getting sick now.

The fact that you notified your employer about your natural immunity might be terrific evidence later, depending on how the law evolves. Document, document, document.

✊ *INJECT OR TEST POLICIES* ✊

Suppose you are one of the fortunate ones to be facing an "inject or test" policy. Testing, ESPECIALLY unnecessary testing or discriminatory testing, is also invasive and unconstitutional. But take it for now unless you are 100% committed to going the distance. For Heaven's sake, don't take the injection to avoid a testing requirement. We'll come back and clear these up later.

✊ *THERE IS NO FEDERAL MANDATE FOR PRIVATE EMPLOYERS* ✊

While there is an executive order requiring federal employees and contractors to get the injections, as of the date of this post, there is NO federal mandate for private employers like Joe Biden announced while he was drowning in bad press after his Afghanistan disaster. There's not even an executive order directing OSHA to create the rule.

See [Joe Biden's Vaccine Mandate Doesn't Exist. It's Just A Press Release].

If your employer is trying to use the Biden private-employer mandate as an excuse to require the injections, send them that Federalist article.

✊ *STATUS OF LAWSUITS, SHOULD YOU JOIN UP?* ✊

Finally! A LOT of lawyers are filing a lot of lawsuits right now. I can't even keep up with them all any more. It will only take one — the RIGHT one — for everything to resolve favorably. So hang in there.

If there's a lawsuit going in your area, for sure join up. Not all lawsuits are equal in quality or chances. But just remember, all of this is illegal and unconstitutional. Judges are going to start coming to their senses at some point.

✊ *RESOURCES* ✊

For whatever reason, traditional civil rights firms have been totally useless, irrelevant, nowhere to be seen. I've been profoundly disappointed by the Alliance Defending Freedom, for example. Take a look at their website. Not one thing about coerced injections on the home page. It's reprehensible. They claim to stand up for religious freedom.

But Liberty Counsel is doing great work. (https://lc.org). They have a ton of helpful stuff on their website. So is Robert Kennedy's group, the Children's Health Defense group (https://childrenshealthdefense.org). I think we're seeing the rise of the new civil rights law firms.

There are also a lot of no-vax job boards popping up, like novaxjobsusa.com, novaxmandate.org, and Gab (https://gab.com/groups/49159). You might want to post your resume up there somewhere.

✊ *BE STRONG AND DON'T QUIT* ✊

Remember what they used to say? "Quitters never win." Don't quit.

If worst comes to worst, and they fire you, carefully document ALL your financial damages. What goes around WILL come around.

And hang on! We could win this thing any time now. The Biden Administration is collapsing in the polls. The Europeans have stopped listening to the CDC (more on that tomorrow). The dam looks like it might be breaking again, like the mask dam broke late last year.

✊ *HELP LIKE YOU MEAN BUSINESS* ✊

It's all hands on deck. If this article was helpful to you, PLEASE consider a significant donation to the cause. You can pledge here: https://www.coffeeandcovid.com/p/-learn-how-to-get-involved-. This isn't a small deal. This is a BIG deal, maybe the biggest in our lifetimes. We are up against the biggest government in history with the deepest pockets. We don't need to match them, but we need to stay in the game. If you can't help directly, please consider helping financially.

Hope this helped! Come back tomorrow where we'll pick up the threads on all this delicious Coffee & Covid news.

Join the C&C Army!
You can also find me on MeWe, mewe.com/i/coffee_and_covid.

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Write a comment…

Jillian 19 hr ago
What should I do if I received a religious exemption, and they retracted it saying it was an error and said it was a final decision. Then I went to get a job at another place and now where I work currently (where vaccine is required and they denied my exemption) is giving me the opportunity to "provide more information" since it is "such a serious matter." Are they doing this to be legally compliant? I've already committed to another place and they're messing with our lives. I want to let them know how this has affected me and I don't have any more information to offer than I already have.
♡ Reply

JOHNNY Ledbetter 23 hr ago
Can you comment on whether the vaccine mandates by employers violate the 2009 Gina Act? All of the approved vaccines are Mrna and inject genetic sequences in to our cells to make the spike protien. How can they ask for prove of vaccination with out violating gina
♡ Reply

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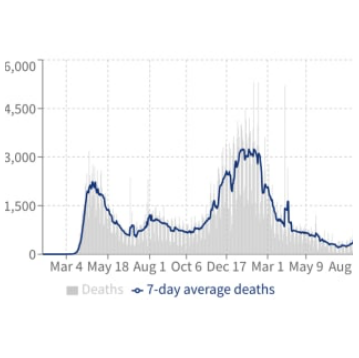

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And What to Do About It Dear Pastor or Father, This might be one of the most important and timely things you've ever read. If you take the time to read…

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☕ Coffee & Covid ❧ Wednesday, October 20, 2021 ❧ SECOND RELIGIOUS ACCOMMODATION PRIMER—A Full Example

A second, detailed primer on drafting Religious Accommodation requests, including a complete sample letter from me, and answers to the new, improved go…

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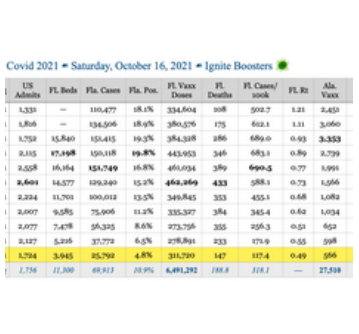

☕ Coffee & Covid ❧ Saturday, October 16, 2021 ❧ BOOSTERS IGNITED

Today we look at: A terrific 5DAY update, the FDA green-lights booster mandates; I examine the details of the NIH's new study that claims mixing-and-ma…

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